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From:

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To:

Cc:

Subject: RE: FTC Question

Creditable foreign income taxes are not deductible under section 164 if the taxpayer elects the foreign tax credit under section 901 for the taxable year. See section 275(a)(4). It may be that the taxpayer does the add-back you refer to as a book-to-tax adjustment to reverse out a financial accounting tax reserve. Note that the GAAP tax reserve would include anticipated future liabilities, and would be a different number than the amount of foreign income taxes paid or accrued in the current tax year (for which deduction is denied under section 275). The current foreign tax paid or accrued may also be a different number than the amount of general limitation foreign tax credit allowed in the current year, which may be either less than the current year amount of creditable foreign taxes (due to the 904 limitation) or more than the current year taxes (if there is allowable carryover of excess credits under 904(c)). Bottom line, taxable income is not reduced by the amount of any creditable foreign taxes paid or accrued, nor by the amount of the allowable foreign tax credit, in any year in which the foreign tax credit is claimed. No deduction for creditable taxes is taken in either the numerator (foreign source taxable income in the separate section 904(d) category) or the denominator (worldwide taxable income) of the section 904(d) limitation fraction, which is used to compute the allowable foreign tax credit in the separate category for the taxable year. We'd be glad to help figure out what is going on in the case you described, if this summary doesn't help.

FYI, the provision for allocation and apportionment of deductible taxes is at 1.861-8(e)(6), which applies in computing the amount of taxable income in the general limitation category (or in any other statutory grouping). Creditable foreign income taxes are deductible under these rules only if the taxpayer elects to deduct them under section 164 instead of claiming the credit under section 901.

Hope this helps.